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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/326,646	06/07/1999	SHERVIN PISHEVAR	55741.000003	4448
41461	7590	01/12/2005	EXAMINER	
CHARLES A. RATTNER 12 HOMEWOOD LANE DARRIEN, CT 06820-6109			KYLE, CHARLES R	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/326,646

Applicant(s)

PISHEVAR ET AL.

Examiner

Charles R Kyle

Art Unit

3624

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 December 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☐ The proposed amendment(s) will not be entered because:  
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.  
10. ☐ Other: \_\_\_\_\_

Continuation of 5. does NOT place the application in condition for allowance because: Applicant cites case law at page 4 of the paper. At third para., Applicant asserts that the four cited references establish that profiling was sufficiently well known to show possession, but does not show how any disclosures in the references would relate to his claimed invention. Applicant asserts that the references establish that methods of matching were sufficiently well known, but do not specify why this is so. Applicant asserts that his disclosure is sufficient but provides no substantive argument. In contrast, the Examiner has in the Final Office Action cited at least one specific defect which Applicant does not address. Applicant's Specification at page 27, recites that "the profiling system becomes more intelligent over time...", but gives no suggestion as to how this might be accomplished. Applicant fails to address at least this specific issue in the After Final Response. At page 5, Applicant argues that each comparison element need not be matched; the Examiner did not argue that each be matched, but only wishes to know how the Specification shows how any would be matched. Applicant then argues comparison of two different shipping related parameters. It is unclear how comparison of "order shipment time" (specific) could be compared to "shipping needs" (broad). Applicant argues that a broad description for matching methods suffices to show possession. Applicant is referred to US 6,098,051 Lupien et al, as example of sufficient disclosure of matching algorithms. Specifically, see Summary of the Invention and Col. 6, line 26 to Col. 9, line 5 as exemplary disclosure of matching methods. Applicant's Specification discloses nothing comparable.

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